



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 5, 1998

Mr. Ryan Tredway  
Staff Attorney  
Legal and Compliance, MC110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR98-1131

Dear Mr. Tredway:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114466.

The Texas Department of Insurance (the "department") received a request for all filings, enforcement data, and related information concerning The Ohio Casualty Group of Insurance Companies ("Ohio Casualty"). You submit to this office for review the records which you assert are responsive. You explain that "some of the requested information will be provided to [the requestor]; however, TDI contends that some of the requested information is exempt from public disclosure," pursuant to sections 552.101 and 552.112 of the Government Code. You also claim that Ohio Casualty may assert that some of the requested information is proprietary information. We have considered the exception and arguments you have raised and reviewed the documents at issue.

Pursuant to section 552.305 of the Government Code, this office informed Ohio Casualty of the request and of its opportunity to submit to this office its arguments as to why any claimed exceptions to disclosure apply to its information. The company responded, claiming that the requested information is excepted from required public disclosure under sections 552.101 and 552.112 of the Government Code. In its brief to this office, however, Ohio Casualty declined to make "any claim at this time that the examination report, the early warning information, or the two sets of financial information . . . are trade secret information." Consequently, we will only consider whether the requested information relating to Ohio Casualty is excepted from disclosure under sections 552.101 and 552.112.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Article 1.15, section 9, of the Insurance Code makes confidential the examination reports and related work papers obtained during the course of an examination of a carrier. Ins. Code art. 1.15, § 9; Open Records Decision No. 640 (1996). We therefore conclude that the department must withhold the information it obtained from Ohio Casualty during an examination, pursuant to section 9 of article 1.15 and section 552.101 of the Government Code.

You also claim that some of the requested information is confidential under article 1.15B of the Insurance Code. Article 1.15B provides, in part:

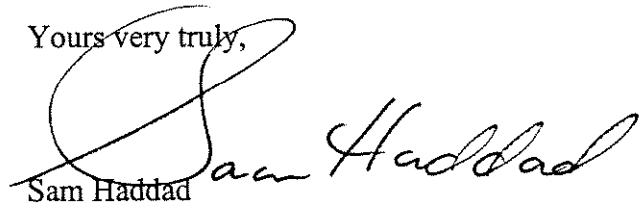
Any information relating to the financial solvency of any organization regulated by the department under this code or another insurance law of this state obtained by the department's early warning system is confidential and is not subject to disclosure under the open records law, . . . , and its subsequent amendments.

Ins. Code art. 1.15B. We agree that article 1.15B applies to portions of the submitted information. We have tagged the document that must be withheld under article 1.15B, as applied through section 552.101 of the Government Code.

Section 552.112(a) excepts from public disclosure information "contained in or related to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both." Insurance companies are included within the term "financial institutions" for purposes of section 552.112(a). Open Records Decision No. 158 (1977) at 5-6. One of the submitted documents not previously addressed under section 552.101 contains information about the financial condition of the company. The department may withhold that document under section 552.112(a) of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad", is written over a large, stylized circular flourish.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 114466

Enclosures: Submitted documents

cc: Dr. William J. Proetz  
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